

1 SIGAL CHATTAH
 2 United States Attorney
 3 District of Nevada
 4 Nevada Bar Number 8264
 5 JACOB H. OPERSKALSKI
 6 Assistant United States Attorney
 7 Nevada Bar Number 14746
 8 501 Las Vegas Blvd. South, Suite 1100
 9 Las Vegas, Nevada 89101
 10 PHONE: (702) 388-6336
 11 jacob.opskalski@usdoj.gov
 12 *Representing the United States of America*

13
 14 **UNITED STATES DISTRICT COURT**
 15 **DISTRICT OF NEVADA**

16 UNITED STATES OF AMERICA,

17 Plaintiff,

18 v.

19 JOHN ANTHONY MILLER,

20 Defendant.

21 Case No.: 2:23-cr-00221-JAD-DJA

22 **Government's Sentencing Memorandum**
 23 **and Response to John Anthony Miller's**
 24 **Memorandum**

25 “[W]e're gonna finish what Hitler started you fucking slut.” – John Anthony Miller.

1 John Anthony Miller (“Miller”) terrorized his victims as he attempted to influence,
 2 impede, intimidate, interfere with, and retaliate against federal officials. The United States
 3 hereby responds to Miller’s sentencing memorandum and argues for a sentence of 60
 4 months as being sufficient, but not greater than necessary to accomplish the goals of
 5 sentencing.

6 **I. Factual and Procedural Background**

7 Over the course of approximately two weeks, Miller left a barrage of violent,
 8 threatening voicemails at offices for two United States Senators (U.S. Senators 1 and 2).

1 Miller's words and actions escalated over that short period as he detailed, in vile,
 2 dehumanizing language, the precise nature of his violent intentions.

3 On October 17, 2023, Miller made the following statements in voicemails left for U.S.
 4 Senator 1:

- 5 • "You just fucking woken up a motherfucking monster, you fucking piece of shit un-
 6 human, subhuman, you're vermin, bitch, you are vermin, bitch, and we're gonna
finish what Hitler started you fucking slut."(emphasis added).
- 7 • "You done picked your side bitch and you done chose evil. I don't give a fuck if you
 8 were born into it or not, bitch, you are fucking evil, bitch and we're gonna
exterminate you, fuck." (emphasis added).

9
 10 ECF No. 75 at 4-5. One day after stating his desire to "finish what Hitler started" and to
 11 "exterminate" his victim who he sees as "subhuman" "vermin," Miller appeared at the
 12 Lloyd D. George Courthouse (where both United States Senators for the State of Nevada
 13 have offices) and stated his intention to see U.S. Senator 1. *See* ECF No. 4 at 4. Miller was
 14 refused entry after he refused to fully comply with a Court Security Officer, and Miller
 15 proceeded to yell, among other things: "To kill every last Israeli terror-fucking-rist" while
 16 walking down Las Vegas Boulevard. *See id.*

17 Miller was undeterred by his refusal at the courthouse; instead, he escalated further,
 18 turning his threats to the families of United States Senators. On October 24, following
 19 another violent rant in a voicemail left for U.S. Senator 1, Miller stated: "Why don't you
 20 come arrest me then, fuckin bitch, fuckin bitch, your family's not safe no more, bitch. You
 21 just put your whole fuckin family in danger, bitch, you better fly them out there to fuckin
 22 Israel too." ECF No. 75 at 5.

23 During the same time period, Miller left a torrent of threatening voicemails with the
 24 offices of U.S. Senator 2. Specifically, in the early morning hours of October 25, Miller left

1 a voicemail threatening the family of U.S. Senator 2. Specifically, Miller left a violent
2 voicemail for United States Senator 2 that ranted about wanting her to live forever "...so
3 you don't have to worry nothing about me, your family on the other hand, and shit, that's
4 another thing, and shit, good luck with that, bitch, you think, you-er-knowwhatImean,
5 you're gonna have security for them?" ECF No. 75 at 5.

6 The FBI later discovered that during the period of time when Miller was violently
7 threatening his victims, he was sending text messages that provided insights into his
8 intentions. The following messages were transcribed by an FBI agent:

9 • October 17, 2023:

10 "Sorry
I just know I'm gonna either die or go to prison here pretty soon
I can't stop crying or leaving messages on they voicemails
They gone too far"

12 • October 23, 2023:

13 "They didn't arrest me today
Looks like I'm gonna have to step it up tomorrow
I ain't gonna stop MayMay
I hope I make you proud of me"

15 • October 24, 2023:

16 "My MayMay
It's hard motherfucking work threatening these pieces of shits war pigs subhuman
senators and congresswomen so now I leave messages mentioning their family
members now and how much I would LOVE to meet and greet them and lucky for us
you posted pictures of them online so we can never forget their faces
If that don't do it MayMay I suppose we'll try something a lil stronger tomorrow
I love you so much and I hope at least you will be proud of me"

19 On October 25, 2023, Miller was charged by criminal complaint with one count of
20 18 U.S.C. § 115(a)(1)(B) threatening a federal official, and an arrest warrant was issued.
21 ECF No. 1. On October 27, 2023, an amended criminal complaint was filed against Miller
22 for the same charge. ECF No. 4. On the same date, Miller had his initial appearance on the
23 amended criminal complaint and was detained following a detention hearing. ECF No. 5.
24

1 On November 21, a Federal Grand Jury returned an indictment charging Miller
2 with one count of threatening a federal official in violation of 18 U.S.C. § 115(a)(1)(B), and
3 two counts of influencing, impeding, or retaliating against a federal official by threatening a
4 family member in violation of 18 U.S.C. § 115(a)(1)(A) for his actions in threatening U.S.
5 Senator 1, the family of U.S. Senator 1, and the family of U.S. Senator 2.

6 On December 19, 2024, Miller pleaded guilty to all counts of the indictment without
7 a plea agreement.

8 **II. Guideline Calculations**

9 The guideline calculations in the presentence investigation report (“PSR”) are
10 accurate (with one mathematical error in the final calculation, as explained below). Counts
11 one and two are grouped together because they involve the same senator and her family, and
12 count 3 is separate as it pertains to a different senator. *See* U.S.S.G. § 3D1.2(b). For counts
13 one and two (group one), the base offense level is 12 pursuant to U.S.S.G. § 2A6.1(a). PSR ¶
14 19. As discussed in greater detail below, a six-level enhancement applies pursuant to
15 U.S.S.G. § 2A6.1(b)(1) because Miller demonstrated an intent to carry out his threats.
16 Because Miller made more than two threats, a two-point enhancement applies. U.S.S.G. §
17 2A6.1(b)(2). The victim is a government officer or employee, so another six-point
18 enhancement applies. U.S.S.G. § 3A1.2(a) and (b). The resulting offense level is 26. PSR ¶
19 25.

20 For count three (group two), the base offense level is 12 pursuant to U.S.S.G. §
21 2A6.1(a). Because Miller made more than two threats, a two-point enhancement applies.
22 U.S.S.G. § 2A6.1(b)(2). The victim was a government officer or employee, so the six-point
23 enhancement applies. U.S.S.G. § 3A1.2(a) and (b). The resulting offense level is 20. PSR ¶
24 31.

1 The highest adjusted offense level pertains to group one with an offense level is 26,
2 so one unit is applied to that group. U.S.S.G. § 3D1.4(a). The adjusted offense level for
3 group two is six levels less serious than the level for group one, so one half-unit is applied
4 to group two. Adding the units together, we get 1.5 units. Pursuant to U.S.S.G. § 3D1.4,
5 one level should be added to the highest adjusted offense level (group one = 26) for a total
6 of 27.

7 The PSR subtracted three levels for acceptance of responsibility under U.S.S.G. §
8 3E1.1(a) and (b). PSR ¶¶ 37-38. This should result in a total offense level of 24, not 25.
9 With a total offense level 24 and criminal history category I, the advisory guideline range is
10 51-63 months' imprisonment.

11 **III. Defense objection**

12 Miller objects to the application of a six-point enhancement in paragraph 20 of the
13 PSR for his conduct evidencing an intent to carry out his threats. ECF No. 82 at 3-4. The
14 enhancement is certainly appropriate considering how Miller tried to gain entry into the
15 United States Federal Courthouse where United States Senators have offices soon after he
16 threatened to “exterminate” his victim in an attempt to “finish what Hitler started . . .”
17 Thankfully, Miller was stopped by a Court Security Officer and thereafter, a supervisory
18 Deputy United States Marshal was there to witness the scene and safeguard the courthouse
19 community. The government intends to present video evidence at the sentencing hearing to
20 demonstrate that even after being denied entry, Miller made yet another violent remark.
21 Miller arrived at the courthouse that day with violence on his mind. Miller did not just wait
22 behind a computer screen or the end of a telephone line with his violent threats, he appeared
23 at a place where he could likely encounter his first victim. The fact that he did not appear to
24 have a weapon on him at the time does nothing to undercut the danger he posed – he clearly

1 demonstrated an intent to carry out his threats. Miller shared his violent intentions in public
2 and in private; therefore, the government submits that his words should not be dismissed as
3 empty rhetorical posturing.

4 **IV. Discussion**

5 Pursuant to 18 U.S.C. § 3553(a), the Court must consider, among other factors: (1)
6 the nature and circumstances of the offense; (2) the history and characteristics of the
7 defendant; (3) the need to reflect the seriousness of the offense and promote respect for the
8 law; (4) the need to afford adequate deterrence; and (5) the need to avoid unwarranted
9 sentencing disparities. The government highlights the following considerations:

10 **A. Seriousness of the offense**

11 We live in a time of unprecedented political violence, where disagreements over
12 policies and politics are too often used to justify violence. The statutes at issue criminalize
13 words – true threats – and these words cause real damage to victims and communities.
14 Even in an atmosphere of ever-increasing violent rhetoric, Miller’s disturbing, antisemitic
15 threats shock the conscience. By his own admission, Miller escalated his threats as he
16 committed his offenses – eventually threatening family members of senators. He was intent
17 on carrying out a mission that would leave him either dead or incarcerated.

18 The sentence imposed in this case should reflect the serious nature of threats made
19 to terrorize victims for carrying out their duties. Threats about killing public servants and
20 their family members are severe and are significant crimes – a sentence of five years will
21 adequately reflect that severity in this case.

22 **B. History and characteristics of the defendant**

23 Miller’s history is especially troubling considering that his voicemails and text
24 messages indicate that he believes his violent threats are justified and should make someone

1 proud of him. He continued to escalate his threats over a short period of time; and knowing
2 that his actions would result in consequences, he nonetheless persisted. Had Miller not
3 been apprehended, his own words detail what he would have done. At an absolute
4 minimum, he was intent on terrorizing his victims.

5 Miller remains a danger to this community – even while in custody, he threatened a
6 staff member with harm. *See* PSR ¶ 4. A significant term of imprisonment is appropriate to
7 redirect the dangerous current trajectory of his life.

8 Because Miller struggles with mental health and addiction issues, his condition
9 should be considered by the Court in fashioning a sentence, including the terms of
10 supervised release. However, absent a significant change, Miller currently poses a
11 significant danger to society, and there is no indication that the danger he poses will
12 decrease any time soon. A sentence of 60 months is appropriate on these facts.

13 **C. Deterrence**

14 The need for deterrence, both specific and general deterrence, is crucial here. Miller
15 needs to learn that if he threatens public servants and their families, he will face a
16 significant term of imprisonment. Of equal importance, general deterrence is needed for
17 cases involving such violent threats. The sentence imposed should send a message to the
18 community that threatening federal officials and their families will not be tolerated, and
19 will result in lengthy terms of incarceration. A sentence of 60 months should serve this
20 purpose.

21 **D. Supervised release**

22 The government requests that the Court impose the recommended three-year term of
23 supervised release with the standard and special conditions recommended by the United
24 States Probation Office as the recommended conditions are likely to aid in Miller's

1 rehabilitation and reentry. To assist in his successful reentry into society, the government
2 requests that the Court impose the mental health condition. To further ensure the safety of
3 the community, the government also requests that Miller be prohibited from contacting his
4 victims and their families, or attending any event at which he would have reason to believe
5 they would be, for the duration of the term of supervision, without advance approval of his
6 supervising probation officer.

7 Considering that Miller lacks positive activities and influences, the government also
8 recommends that he be required to provide community service hours. By working with
9 others who serve the community, perhaps Miller would learn to focus his energies on positive
10 pursuits and not on violent acts that are intended to terrorize public servants.

11 **V. Conclusion**

12 For all the foregoing reasons, a sentence of 60 months, which is near the high end of
13 the advisory guideline range, is sufficient, but no greater than necessary to accomplish the
14 goals of sentencing.

15 SIGAL CHATTAH
16 United States Attorney
17 District of Nevada

18 /s/ Jacob Operskalski
19 JACOB OPERSKALSKI
20 Assistant United States Attorney